

### REMARKS

In the subject Office Action the Examiner rejected Claims 15-21 under 35 U.S.C. § 102(b) over Webb et al., (USP 6,698,795); Claims 15, 18 and 19 under 35 U.S.C. § 102(b) over Rodda et al., (USP 5,368,305); Claims 16 and 17 under 35 U.S.C. § 103(a) over Rodda et al. "in view of Applicants' admission" and Claim 21 under 35 U.S.C. § 103(a) over Rodda et al.

The Examiner also indicated that Claims 22-25 would be allowable if amended to independent form.

Applicants respectfully submit that the amendments and remarks herein avoid and/or traverse all of the rejections of Claims 15-21, avoid any need for amendment of the dependencies of Claims 22-25, and place all Claims 15-25, as amended, for condition for allowance.

Applicants have amended Claim 15 to emphasize the distinction between their invention and the games described in the cited patents. Claim 18 has been amended to clarify its description of the play of the game. Various claims have been amended to correct minor typographical or wording errors.

The Webb patent is newly cited by the Examiner for its mention at column 9 that, with respect to its "player banked three card poker and associated games":

The game can be played with a standard 52-card deck, or a modified deck, such as a deck with the lower ranking cards (2's, 3's, 4's and 5's) stripped out, for example.

The Rodda patent is cited for substantially the same type of disclosure, that its "black-jack type wagering game":

utilizes one or more modified decks of standard playing cards by eliminating the eights, nines and tens.

Applicants respectfully submit that these disclosures do not anticipate nor make obvious any of Applicants' claims.

A biased deal as applicable to card games is one in which a standard deck of cards is dealt in other than a normal random deal manner. Both the deck of cards and the game itself are standard and played according to standard rules. The biasing occurs only in the manner in which the cards are dealt to the players. In Applicants' present invention the

biasing results in players in a standard poker game all being dealt poker hands which are within a range of regular poker hand values (ranks) which is centered around a randomly chosen hand value. This results in the players' hands all being relatively competitive with each other, so that players are encouraged to stay in a hand longer, knowing that they may have a better chance to win than if the hands had been dealt in a random manner. However, the biased dealing has not created a "new game." The poker game itself, the rules of poker, the total number of cards available for play, and the relative ranks of the poker hands are exactly the same as in a poker game played with a non-biased deal.

In games with a modified card deck, such as are disclosed in Webb and Rodda, the fundamental nature of the game itself is changed, a fact which both Webb and Rodda freely acknowledge.

Rodda defines a game which is played with a 40-card deck, which differs from a standard deck in that the high end spot cards have been eliminated. Rodda identifies the game as a "black-jack type" game. This identification is critical, since Rodda (and all card players) would immediately recognize that, while Rodda's new game has similarities to standard blackjack, it is certainly not standard blackjack. This is further emphasized by the fact that, because of the modified deck, Rodda's game's rules must be significantly different from the rules of standard blackjack. For instance, Rodda's game has a target score of  $7\frac{1}{2}$  rather than blackjack's 21 and the dealer must draw to a hand value of  $4\frac{1}{2}$  and stand on 5, rather than the usual 16-draw and 17-stand of standard blackjack. In short, it is clear that Rodda has, by modifying a standard deck, created and disclosed an entirely new game. There is no "biased deal" in Rodda's game -- the 40-card modified deck is dealt in a random manner in accordance with the new rules of the new game.

Webb discloses both an old game embodiment and a new one, but neither involves a "biased deal." In the passage in column 9 cited by the Examiner, the inventors say that their poker game can be played with a standard deck, i.e., a 52-card deck. However, they necessarily intend a normal random deal, since they do not mention anything about biasing the deal of that standard deck. Since there is no modification of the deck in this embodiment of the Webb game, this embodiment clearly is the "player banked three card

poker" game defined in the title of their invention. This portion of the Webb disclosure neither anticipates nor makes obvious any aspect of Applicants' claimed invention, since a standard deck is used and no biasing of the deal of that deck is disclosed nor suggested.

Webb's second embodiment in the column 9 passage presents the same situation as in Rodda. In this embodiment the Webb inventors define a game in which a 36-card deck is used (all of the low-end spot cards have been removed). Since such a game cannot be played in the same manner as a three-card poker game with a standard deck this results in a different game, with different rules and a different mode of play. For instance, the modified-deck game cannot have the same range of hand values as the standard game, since the lowest ranking hands referred to by Webb in the first Table in column 10 (such as a 32A "brag" or a 222 "trips") do not exist in the modified game. Webb et al. fully recognize that their game with a modified deck is not a standard three-card poker game, and clearly identify it as such, by referring to it in their title as an "associated game" to their standard game. Even in this modified game, however, there is no disclosure of a "biased deal." The modified 36-card deck is dealt in a random manner.

As noted above, Applicants have amended Claim 15 to clarify that biasing of the deal in their invention occurs with a standard deck. This patentably differentiates the present invention from the cited games, since neither Webb nor Rodda discloses a game in which a biased deal is present. Regardless of whether the disclosed game is a standard game with a standard deck (as in Webb's first embodiment) or a new game resulting from the use of a modified deck (as in Rodda and Webb's second embodiment), all deals in the disclosed references are random. Biasing of the deal is never mentioned nor suggested.

### FEES

It is not believed that any fees are due with respect to the amendment of the claims herein. However, should any additional fees be due, the Patent and Trademark Office is authorized to charge all such fees to Deposit Account No. 50-1990.

### CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that all grounds of rejection have been avoided and/or traversed. The Examiner is therefore respectfully requested to enter the amendments herein, reconsider and withdraw the rejections and allow Claims 15-25, as amended, all claims in the case following amendment.

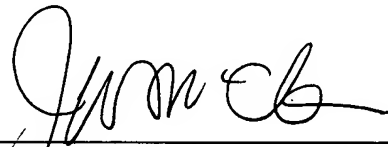
Should the Examiner believe that allowance of this application might be expedited by further discussion of the issues, a telephone call to the undersigned attorney at the contact telephone number listed below, is cordially invited.

Respectfully submitted,

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1/4/07

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Docket No. BDCGM-1030682